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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,923	01/19/2000	Jerome Swartz	467XXB	3738
23704	7590	05/21/2004	EXAMINER	
SYMBOL TECHNOLOGIES INC LEGAL DEPARTMENT ONE SYMBOL PLAZA HOLTSVILLE, NY 11742			ST CYR, DANIEL	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 05/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 09/487,923	<b>Applicant(s)</b> SWARTZ ET AL.	
	<b>Examiner</b> Daniel St.Cyr	<b>Art Unit</b> 2876	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 39-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/31/04 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 39, 40 and 45-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod et al, US Patent No. 6,405,049, in view of Eberhard, US Patent No. 5,828,322.

Herrod et al disclose a portable data terminal and cradle, said cradle comprising: a

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housing 12 configured to allow a user to secure and remove the portable 10; a power management system delivering power to the portable terminal when secured to the housing (see col. 19, lines 3-7); a communication port 36 for communicating data from the vehicle cradle 12 to the portable terminal 10; and the cradle includes an antenna operable to receive order data from the portable terminal, which the vehicle cradle couples to a wide area network via a wide area network access point to transmit the other data over the wide area network to an order server. The cradle is communicated using either RF, infrared, microwave, or any other suitable method. (see figure 2-3, 12; col. 5, line 52+ and col. 19, line 14+).

Herrod et al fail to disclose or fairly suggest a coded bag for containing the ordered items.

Eberhard discloses a system for controlling delivery and return items comprising: a bag 2 having a tag 3 containing coded indicia for verifying delivery of the items (see col. 6).

In view of Eberhard et al, it would have been obvious for a person of ordinary skill in the art for a person of ordinary skill in the art at the time the invention was made to modify the system of Herrod et al to include coded bags for delivering the ordered items. Such modification would make the system more effective by providing enough information in the code to verify each delivery. Furthermore, such modification would be more cost effective by reducing the number of paper bags or vinyl bags provided to consumers.

4. Claims 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herrod et al in view of Ross et al as modified by Eberhard, US Patent No. 5,859,628. The teachings of Herrod et al as modified by Eberhard have been discussed above.

Herrod et al as modified by Eberhard disclose that the cradle is couple to an antenna for

communicating to host/server unit (see figure 12), but fails to disclose that the antenna is a GPS antenna.

Ross et al disclose an apparatus and method for a personal onboard information system comprising: a housing 304 configured to allow a user to secure and remove a portable terminal 102; a power management system 108 for delivering power to the portable terminal when secured to the housing; a communication port 316 for communicating data from a vehicle cradle 104 to the portable terminal 102; and a GSP system locator coupled to said communication port for generating a location signal and transmitting said signal to the portable terminal, whereby the location of the motorized vehicle is transmitted to the portable terminal by the vehicle cradle (see figures 2, 3; col. 3 to col. 4, line 49 and col. 8, line 8+).

In view of Ross et al, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to couple the cradle with a GPS antenna in lieu of the standard RF antenna to monitor the vehicle position. Such modification would make the system more practical and more effective by providing means to schedule orders pick up according to the vehicle location, wherein an operator could be instructed to pick up an order if the operator is within the area of the customer. Therefore, it would have been an obvious extension as taught by Herrod et al as modified by Eberhard.

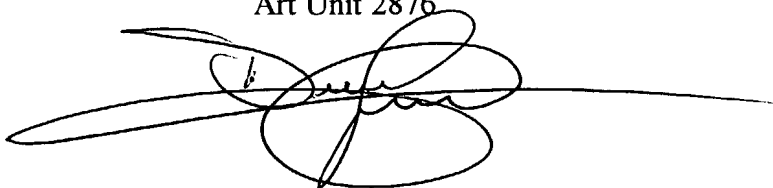
### *Conclusion*

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr  
Primary Examiner  
Art Unit 2876

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

DS  
May 17, 2004